

BEFORE THE
CALIFORNIA BOARD OF ACCOUNTANCY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

JAY ALAN SALAMON
5350 Toscana Way, Apt. 112
San Diego, CA 92122

Certified Public Accountant Certificate No.
CPA 80244

Respondent.

Case No. AC-2012-39

DECISION AND ORDER

The attached Stipulated Surrender of License and Order is hereby adopted by the California Board of Accountancy, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on December 26, 2012.

It is so ORDERED November 26, 2012.



FOR THE CALIFORNIA BOARD OF ACCOUNTANCY
DEPARTMENT OF CONSUMER AFFAIRS

1 KAMALA D. HARRIS
Attorney General of California
2 JAMES M. LEDAKIS
Supervising Deputy Attorney General
3 RON ESPINOZA
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Attorneys for Complainant

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9 **BEFORE THE**
CALIFORNIA BOARD OF ACCOUNTANCY
DEPARTMENT OF CONSUMER AFFAIRS
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

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13 San Diego, CA 92122

14 Certified Public Accountant Certificate No.
CPA 80244

15
16 Respondent.

Case No. AC-2012-39

**STIPULATED SURRENDER OF
LICENSE AND ORDER**

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18 In the interest of a prompt and speedy resolution of this matter, consistent with the public
19 interest and the responsibility of the California Board of Accountancy (CBA) of the Department
20 of Consumer Affairs, the parties hereby agree to the following Stipulated Surrender of License
21 and Order which will be submitted to the CBA for approval and adoption as the final disposition
22 of the Accusation.

23 PARTIES

24 1. Patti Bowers (Complainant) is the Executive Officer of the California Board of
25 Accountancy. She brought this action solely in her official capacity and is represented in this
26 matter by Kamala D. Harris, Attorney General of the State of California, by Ron Espinoza,
27 Deputy Attorney General.

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2. Jay Alan Salamon (Respondent) is represented in this proceeding by lay representative Jason Dalley, whose address is 35 SE 6th Avenue, Delray Beach, FL 33483.

3. On or about December 8, 2000, the California Board of Accountancy issued Certified Public Accountant Certificate Number CPA 80244 to Respondent Jay Alan Salamon. The Certified Public Accountant Certificate expired on September 30, 2010, and has not been renewed.

JURISDICTION

4. Accusation No. AC-2012-39 was filed before the California Board of Accountancy, Department of Consumer Affairs, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on June 18, 2012. Respondent timely filed his Notice of Defense contesting the Accusation. A copy of Accusation No. AC-2012-39 is attached as Exhibit A and incorporated by reference.

ADVISEMENT AND WAIVERS

5. Respondent has carefully read, fully discussed with his representative Jason Dalley, and understands the charges and allegations in Accusation No. AC-2012-39. Respondent also has carefully read, fully discussed with his representative Jason Dalley, and understands the effects of this Stipulated Surrender of License and Order.

6. Respondent is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to be represented by counsel, at his own expense; the right to confront and cross-examine the witnesses against him; the right to present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

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ORDER

IT IS HEREBY ORDERED that Certified Public Accountant Certificate No. 80244, issued to Respondent Jay Alan Salamon, is surrendered and accepted by the California Board of Accountancy.

1. The surrender of Respondent's Certified Public Accountant Certificate and the acceptance of the surrendered license by the CBA shall constitute the imposition of discipline against Respondent. This stipulation constitutes a record of the discipline and shall become a part of Respondent's license history with the California Board of Accountancy.

2. Respondent shall lose all rights and privileges as a Certified Public Accountant in California as of the effective date of the CBA's Decision and Order.

3. Respondent shall cause to be delivered to the CBA his pocket license and, if one was issued, his wall certificate on or before the effective date of the Decision and Order.

4. If Respondent ever files an application for licensure or a petition for reinstatement in the State of California with the CBA, the CBA shall treat it as a petition for reinstatement. Respondent must comply with all the laws, regulations and procedures for reinstatement of a revoked license in effect at the time the petition is filed, and all of the charges and allegations contained in Accusation No. AC-2012-39 shall be deemed to be true, correct and admitted by Respondent when the CBA determines whether to grant or deny the petition.

5. Respondent shall not apply for licensure or petition for reinstatement to the CBA for one year from the effective date of the Decision and Order.

6. Respondent shall pay the CBA its costs of investigation and enforcement of this matter in the amount of \$4,483.58 within ten months after the effective date of the Decision and Order.

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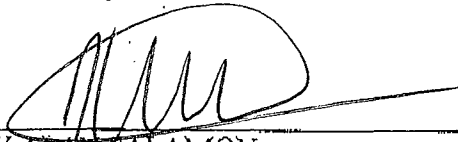
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ACCEPTANCE

I have carefully read the above Stipulated Surrender of License and Order and have fully discussed it with my lay representative, Jason Dalley. I understand the stipulation and the effect it will have on my Certified Public Accountant Certificate. I enter into this Stipulated Surrender of License and Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the California Board of Accountancy.

DATED:

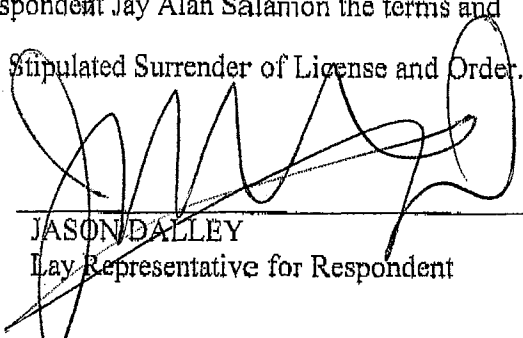
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JAY ALAN SALAMON
Respondent

I have read and fully discussed with Respondent Jay Alan Salamon the terms and conditions and other matters contained in this Stipulated Surrender of License and Order. I approve its form and content.

DATED:

10/9/12


JASON DALLEY
Lay Representative for RespondentENDORSEMENT

The foregoing Stipulated Surrender of License and Order is hereby respectfully submitted for consideration by the California Board of Accountancy of the Department of Consumer Affairs.

Dated: 11-1-12

Respectfully submitted,

KAMALA D. HARRIS
Attorney General of California
JAMES M. LEDAKIS
Supervising Deputy Attorney General



RON ESPINOZA
Deputy Attorney General
Attorneys for Complainant

Exhibit A

Accusation No. AC-2012-39

1 KAMALA D. HARRIS
Attorney General of California
2 JAMES M. LEDAKIS
Supervising Deputy Attorney General
3 RON ESPINOZA
Deputy Attorney General
4 State Bar No. 176908
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CPA 80244

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16 Respondent.

Case No. AC-2012-39

A C C U S A T I O N

17
18 Complainant alleges:

19 **PARTIES**

20 1. Patti Bowers (Complainant) brings this Accusation solely in her official capacity as
21 the Executive Officer of the California Board of Accountancy, Department of Consumer Affairs,
22 State of California.

23 2. On or about December 8, 2000, the California Board of Accountancy issued Certified
24 Public Accountant Certificate Number CPA 80244 to Jay Alan Salamon (Respondent). The
25 Certified Public Accountant Certificate expired on September 30, 2010, and has not been
26 renewed.

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JURISDICTION

3. This Accusation is brought before the California Board of Accountancy (CBA or Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 5109 of the Code states:

The expiration, cancellation, forfeiture, or suspension of a license, practice privilege, or other authority to practice public accountancy by operation of law or by order or decision of the board or a court of law, the placement of a license on a retired status, or the voluntary surrender of a license by a licensee shall not deprive the board of jurisdiction to commence or proceed with any investigation of or action or disciplinary proceeding against the licensee, or to render a decision suspending or revoking the license.

5. Section 5100 states, in relevant part:

After notice and hearing the board may revoke, suspend, or refuse to renew any permit or certificate granted under Article 4 (commencing with Section 5070) and Article 5 (commencing with Section 5080), or may censure the holder of that permit or certificate for unprofessional conduct that includes, but is not limited to, one or any combination of the following causes:

...

(a) Conviction of any crime substantially related to the qualifications, functions and duties of a certified public accountant or a public accountant.

...

(g) Willful violation of this chapter or any rule or regulation promulgated by the board under the authority granted under this chapter.

...

(j) Knowing preparation, publication, or dissemination of false, fraudulent, or materially misleading financial statements, reports, or information.

...

6. Section 5106 states:

A plea or verdict of guilty or a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning of this article. The record of the conviction shall be conclusive evidence thereof. The board may order the certificate or permit suspended or revoked, or may decline to issue a certificate or permit, when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting probation is made, suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code allowing such person to withdraw his plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty or dismissing the accusation, information or indictment.

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1 the crime in order to fix the degree of discipline or to determine if the conviction
2 is substantially related to the qualifications, functions, and duties of the licensee in
3 question.

4 As used in this section, "license" includes "certificate," "permit,"
5 "authority," and "registration."

6 REGULATIONS

7 10. California Code of Regulations (CCR), Title 16, Section 99 states:

8 For the purposes of denial, suspension, or revocation of a certificate or permit
9 pursuant to Division 1.5 (commencing with Section 475) of the Business and
10 Professions Code, a crime or act shall be considered to be substantially related to the
11 qualifications, functions or duties of a certified public accountant or public accountant
12 if to a substantial degree it evidences present or potential unfitness of a certified
13 public accountant or public accountant to perform the functions authorized by his or
14 her certificate or permit in a manner consistent with the public health, safety, or
15 welfare. Such crimes or acts shall include but not be limited to those involving the
16 following:

17 (a) Dishonesty, fraud, or breach of fiduciary responsibility of any kind;

18 (b) Fraud or deceit in obtaining a certified public accountant's certificate or a
19 public accountant's permit under Chapter 1, Division III of the Business and
20 Professions Code;

21 (c) Gross negligence in the practice of public accountancy or in the
22 performance of the bookkeeping operations described in Section 5052 of the code;

23 (d) Violation of any of the provisions of Chapter 1, Division III of the Business
24 and Professions Code or willful violation of any rule or regulation of the board.

25 11. California Code of Regulations, Title 16, Section 99.1 states:

26 When considering the denial of a certificate or permit under Section 480 of the
27 Business and Professions Code, the suspension or revocation of a certificate or permit
28 or restoration of a revoked certificate under Section 11522 of the Government Code,
the board, in evaluating the rehabilitation of the applicant and his present eligibility
for a certificate or permit, will consider the following criteria:

(1) Nature and severity of the act(s) or offense(s).

(2) Criminal record and evidence of any act(s) committed subsequent to the
act(s) or offense(s) under consideration which also could be considered as grounds for
denial, suspension or revocation.

(3) The time that has elapsed since commission of the act(s) or offense(s)
referred to in subdivision (1) or (2).

1 (4) The extent to which the applicant or licensee has complied with any terms
2 of parole, probation, restitution, or any other sanctions lawfully imposed against the
3 applicant or licensee.

4 (5) If applicable, evidence of expungement proceedings pursuant to Section
5 1203.4 of the Penal Code.

6 (6) Evidence, if any, of rehabilitation submitted by the applicant or licensee.

7 COST RECOVERY

8 12. Section 5107, subdivision (a), states:

9 The executive officer of the board may request the administrative
10 law judge, as part of the proposed decision in a disciplinary proceeding,
11 to direct any holder of a permit or certificate found to have committed a
12 violation or violations of this chapter to pay to the board all reasonable
13 costs of investigation and prosecution of the case, including, but not
14 limited to, attorneys' fees. The board shall not recover costs incurred at
15 the administrative hearing.

16 FACTS

17 13. Creative Financial Solutions, Inc. (Creative Financial) was a mortgage brokerage firm
18 located in San Diego, California. Started in 2005, Creative Financial provided home financing
19 for buyers. Creative Financial sent loan application packages and other documents to lenders for
20 review and funding. Creative Financial did not itself fund loans, but received commissions from
21 lenders when loans closed.

22 14. Beginning on a date uncertain, and continuing through at least November 2006,
23 Creative Financial and their employees engaged in a mortgage fraud scheme. As part of the
24 scheme, Creative Financial obtained mortgage loans for unqualified and/or unknowing borrowers
25 by submitting fraudulent mortgage loan applications. Creative Financial utilized Respondent Jay
26 Alan Salamon, a Certified Public Accountant (CPA) in San Diego, to verify employment for
27 individual borrowers. Creative Financial employees placed fraudulent CPA letters signed by
28 Respondent in some of the loan applications stating that Respondent had prepared income tax
returns for the borrower and that the borrower was self-employed. These letters were untrue and
were prepared by Respondent in exchange for approximately \$100 each.

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15. In or about March 2006, at the request of Creative Financial, Respondent knowingly prepared a false CPA letter as part of a loan application package stating that he had prepared income tax returns for the borrower, R.C., for the past two years. Respondent, however, had never prepared tax returns for the borrower, and was unaware of the borrower's employment or income. Respondent knew that the false CPA letter he prepared would be submitted to a lender to obtain a property loan, and that the lender would be relying upon the false CPA letter to determine whether to fund the loan.

FIRST CAUSE FOR DISCIPLINE

(Criminal Conviction for Aiding and Abetting Wire Fraud)

16. Respondent is subject to disciplinary action under sections 5100(a) and 490 of the Code in that he was convicted of a crime that is substantially related to the qualifications, functions, and duties of a Certified Public Accountant. The circumstances are as follows:

a. In or about March 2006, in violation of Title 18, United States Code, Sections 1343 and 2, Respondent aided and abetted Creative Financial Solutions, Inc., to commit wire fraud by knowingly preparing a false CPA letter as part of a loan application package to lender Fremont Investment, as alleged in paragraphs 13-15 above, which are hereby incorporated by reference.

b. On or about June 22, 2010, in a criminal proceeding entitled *United States of America v. Jay Alan Salamon*, in United States District Court, Southern District of California, Case No. 10CR2427-WQH, before a Magistrate Judge, Respondent pled guilty to violating Title 18, United States Code, Sections 1343 and 2 (aiding and abetting wire fraud), a felony. On or about July 7, 2010, the District Court accepted Respondent's guilty plea and he was convicted thereon.

c. On or about October 17, 2011, as a result of the conviction, Respondent was sentenced by the District Court to federal prison for ten months, and ordered to pay \$287,719.27 in restitution. The District Court further ordered that following release from prison, Respondent was to be placed on supervised release for three years.

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